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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 RICHARD L. PARENTEAU, JR.,

9 Plaintiff,

10 v.

11 JAMES COOPER,

12 Defendant.

CASE NO. C17-1318 JLR-BAT

REPORT AND RECOMMENDATION

13 Richard Parenteau, filed a *pro se* 42 U.S.C. § 1983 civil rights complaint. Dkt. 1. The  
14 complaint alleges Detective James Cooper “illegally seized” Mr. Parenteau in his residence on  
15 July 19, 2014. *Id.* The Court declined to serve the complaint on the grounds that it is untimely  
16 and fails to state a viable claim for relief under 42 U.S.C. § 1983. Dkt. 7. However, because Mr.  
17 Parenteau proceeds *pro se*, the Court granted him leave to explain by October 27, 2017, why the  
18 complaint should not be dismissed. Mr. Parenteau has not responded or communicated with the  
19 Court in any way. The Court accordingly recommends the case be dismissed with prejudice

20 **DISCUSSION**

21 Mr. Parenteau filed an action under 42 U.S.C. § 1983. To state a claim for relief under §  
22 1983, he must show a state actor violated his constitutional rights. *Gibson v. United States*, 781  
23 F.2d 1334, 1338 (9th Cir. 1986). The facts alleged in Mr. Parenteau’s complaint fail to state a

1 viable claim for relief under § 1983.

2 First, Mr. Parenteau's claim is barred by the statute of limitations. He claims Detective  
3 Cooper illegally seized him in his home. Any claims arising for an alleged illegal or false arrest  
4 are subject to a three year statute of limitations. *Joshua v. Newell*, 871 F.2d 884, 886 (9th  
5 Cir.1989) (citing RCW 4.16.080(2)). Under federal law, a claim accrues "when the plaintiff  
6 knows or has reason to know of the injury which is the basis of the action." *Two Rivers v. Lewis*,  
7 174 F.3d 987, 991 (9th Cir. 1999). Here, Mr. Parenteau alleges he was illegally seized on July  
8 19, 2014, which is more than three years ago from August 26, 2017, the date he filed the  
9 complaint. Mr. Parenteau clearly knew about the alleged illegal seizure at the time it occurred  
10 because it involved his own person. The complaint is thus untimely and barred by the statute of  
11 limitations.

12 Second, Mr. Parenteau's claim is barred by *Heck v. Humphrey*, 512 U.S. 477, 486-87  
13 (1994). When a state prisoner brings a § 1983 action for damages, the Court must consider  
14 whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his  
15 conviction, sentence, or confinement. *Id.* at 487-90. "[I]f it would, the complaint must be  
16 dismissed," unless the plaintiff can demonstrate that the conviction or confinement has already  
17 been invalidated, expunged, or otherwise impugned. *Id.* at 487; *see also Butterfield v. Bail*, 120  
18 F.3d 1023, 1024 (9th Cir. 1997). Here Mr. Parenteau was apparently arrested by Detective  
19 Cooper and placed in the King County Jail where he remains detained. He claims the detective  
20 illegally seized him, a claim that if true would necessarily imply his conviction is invalid. The  
21 fact that Mr. Parenteau still remains in custody indicates he has not successfully challenged the  
22 criminal matter that brought him to the jail, and that his claims are therefore barred under *Heck*.

1 Because Mr. Parenteau did not provide any background information about his current  
2 status, the Court has also considered whether the criminal matter for which the detective arrested  
3 him is still pending. If so, *Heck* is inapplicable but the case should still be dismissed under the  
4 *Younger* abstention doctrine. *See Younger v. Harris*, 401 U.S. 37, 45, 46 (1971). The *Younger*  
5 abstention doctrine requires a district court to dismiss a federal action if state proceedings are (1)  
6 ongoing, (2) implicate important state interests, and (3) afford the plaintiff an adequate  
7 opportunity to raise the federal issue. *Columbia Basin Apartment Ass'n v. City of Pasco*, 268  
8 F.3d 791, 799 (9th Cir. 2001) (citation omitted).

9 All of the *Younger* criteria are satisfied here assuming the criminal matter is still pending.  
10 Ongoing state criminal prosecutions implicate important state interests, and there is nothing to  
11 indicate Mr. Parenteau cannot raise in his criminal case the same claims he raises here, or that  
12 there is a danger of great and immediate irreparable harm. Accordingly, this action would unduly  
13 interfere with the state criminal proceeding in a way *Younger* disapproves and should be  
14 dismissed.

## 15 CONCLUSION

16 Because the complaint appears to be barred by the statute of limitations, and also appears  
17 to be barred either by *Heck v. Humphry*, or *Younger v. Harris*, the Court recommends the case be  
18 dismissed with prejudice.

19 Mr. Parenteau is advised that this Report and Recommendation is not an appealable  
20 order. Therefore a notice of appeal seeking review in the Court of Appeals for the Ninth Circuit  
21 should not be filed until the assigned District Judge enters a judgment in the case.

22 Objections, however, may be filed no later than **November 21, 2017**. The Clerk should  
23 note the matter for **November 24, 2017**, as ready for the District Judge's consideration.

1 Objections shall not exceed eight (8) pages. The failure to timely object may affect the right to  
2 appeal.

3 The Clerk is directed to provide a copy of this order to Mr. Parenteau, and the Honorable  
4 James L. Robart.

5 DATED this 31st day of October, 2017.

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BRIAN A. TSUCHIDA  
United States Magistrate Judge